

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

BB SYNDICATION SERVICES, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 10-cv-195
)	
FIRST AMERICAN TITLE INSURANCE COMPANY,)	
)	
Defendant.)	

ORDER

Based upon the entire record in this cause, the cross motions for summary judgment filed by the parties, this Court's prior Opinion & Order dated September 30, 2011 (Docket No. 83) and the Court conference conducted on October 19, 2011, this Court supplementally finds and orders as follows:

1. There has been a breach of the duty to defend by Defendant, First American Title Insurance Company, under the title policy based upon the record before this Court.

2. Plaintiff, BB Syndication Services, Inc., is entitled to declaratory judgment on the Defendant's breach of the duty to defend under the title policy, and Plaintiff is entitled to recover damages for that breach.

3. The extent of the duty to defend, the extent of the duty to indemnify, the extent of damages flowing from the breach, and the issue of bad faith, if any, are not currently determined.

4. Upon a final decision from the United States Bankruptcy Court for the Western District of Missouri in Adversary Proceeding No. 10-04016-drd, including any

appeals, this Court will schedule another status conference with counsel, either in person or by teleconference, and thereafter arrive at an allocation of:

- a. The liens which required a defense by Defendant; and
- b. The liens which require indemnity by Defendant.

5. If appropriate, the Court will also subsequently schedule a hearing to determine the issues not before this Court on the cross-motions for summary judgment pertaining to:

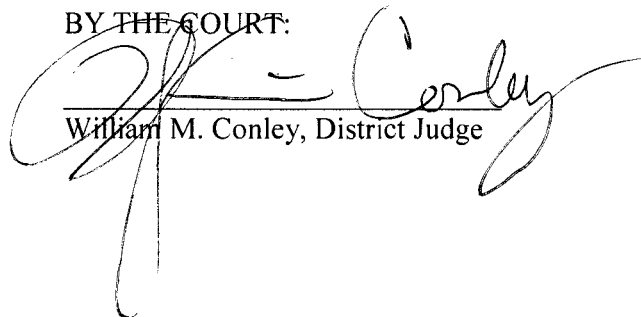
- a. The damages, if any, sustained by Plaintiff resulting from Defendant's breach of the duty to defend;
- b. The damages, if any, sustained by Plaintiff resulting from the Defendant's failure to indemnify; and
- c. The issues pertaining to the claim of bad faith made by Plaintiff against Defendant.

This Order is entered without waiver of either parties' rights of appeal as to this Order or as to this Court's prior Opinion & Order (Docket No. 83), and neither this Order nor this Court's prior Opinion & Order constitute a final order in this cause.

It is so ORDERED.

This the 15th day of November, 2011.

BY THE COURT:


William M. Conley, District Judge